

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NEW YORK SMSA LIMITED PARTNERSHIP
d/b/a VERIZON WIRELESS,

Plaintiff,

MEMORANDUM AND ORDER

-against-

CV 2:10-cv-03573 (LDW) (AKT)

INCORPORATED VILLAGE OF MUTTONTOWN,
et al.,

Defendants.

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WEXLER, District Judge

Plaintiff New York SMSA Limited Partnership d/b/a Verizon Wireless brings this action against defendants Incorporated Village of Muttontown (the “Village”) and the Village’s Board of Trustees and Building Department alleging that defendants unreasonably delayed and failed to decide plaintiff’s application for a special use permit to install wireless antennas inside an existing church steeple in violation of the Telecommunications Act of 1996, 47 U.S.C. § 332(c). Plaintiff moves for summary judgment under FRCP 56. Defendants oppose the motion.

Upon consideration, the Court finds that genuine issues of material fact exist precluding the entry of summary judgment. See Fed. R. Civ. P. 56(a) (party seeking summary judgment must demonstrate that “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law”); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

Accordingly, plaintiff’s motion for summary judgment is denied.

SO ORDERED.

/s/
LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
February 3, 2012